

STATE OF MICHIGAN
COURT OF APPEALS

GEORGE S. MIHLADER,

Plaintiff-Appellant,

v

BARTON-MALOW COMPANY,

Defendant/Third-Party Plaintiff-
Appellee,

and

GIANNOLA MASONRY COMPANY,

Third-Party Defendant-Appellee.

UNPUBLISHED

June 29, 2001

No. 222999

Oakland Circuit Court

LC No. 98-005630-NO

Before: Gage, P.J., and Fitzgerald and Markey, JJ.

PER CURIAM.

Plaintiff appeals as of right the order granting summary disposition pursuant to MCR 2.116(C)(10) in favor of defendant Barton-Malow Company (hereinafter defendant). We affirm.

Plaintiff first argues that the trial court erred in granting summary disposition with respect to plaintiff's "common work area" theory of liability. See *Funk v General Motors Corp*, 392 Mich 91, 104; 220 NW2d 641 (1974), overruled in part on another ground, *Hardy v Monsanto Enviro-Chem Systems, Inc*, 414 Mich 29; 323 NW2d 270 (1982). Decisions since *Funk* was decided have clarified when a work area may be deemed "common" for purposes of a common work area theory. See *Groncki v Detroit Edison Co*, 453 Mich 644; 557 NW2d 289 (1996); *Plummer v Bechtel Construction Co*, 440 Mich 646; 489 NW2d 66 (1992). None of those cases, however, suggest that an area in which workers merely travel and perform no work constitute a "work area." Here, plaintiff fell as he walked from a parking area to his own employer, Giannola Masonry's, trailer. Unlike *Funk* and its progeny, this area was not a work area, nor was the area under defendant's control. Although plaintiff asserts that workers of other contractors would traverse the area, we decline to extend the common work area theory of liability to include areas in which workers merely travel. Thus, we agree with the trial court that defendant was entitled to summary disposition with respect to plaintiff's "common work area" theory of liability.

Plaintiff also argues that there is a genuine issue of material fact with regard to whether defendant, as the possessor of the land, breached the duty to take reasonable measures within a reasonable time after the accumulation of the snow to diminish the hazard of injury. However, plaintiff's reliance on cases discussing the duty of a property owner to an invitee is misplaced. Because defendant is a general contractor, defendant may be held liable for worksite injuries if it fails to take reasonable steps within its supervisory and coordinating authority to guard against readily observable, avoidable dangers in common work areas that create a high danger of risk to a significant number of construction workers. *Funk, supra* at 104; *Candelaria v BC General Contractors, Inc*, 236 Mich App 67, 72; 600 NW2d 348 (1999); *Hughes v PMG Building, Inc*, 227 Mich App 1, 4; 574 NW2d 691 (1997). Because plaintiff's injury did not occur in a common work area, we conclude that the trial court did not err in granting defendant's motion for summary disposition.

Affirmed.

/s/ Hilda R. Gage
/s/ E. Thomas Fitzgerald
/s/ Jane E. Markey